

VERSION OF AMENDMENTS WITH MARKINGS TO SHOW CHANGES:

IN THE CLAIMS:

20. (Twice Amended) [The] A reusable paint container [as claimed in claim 19]
comprising:

- a. a plurality of paint compartments for storing paint, wherein an interior of the paint compartments has a sloped area and a reservoir area, wherein the reservoir area includes a centrally located circular depression having a hole located in the center of the circular depression, wherein the hole is for coupling a spigot assembly to the paint compartment;
- b. a body holding the paint compartments having a front, a back, a planar first side and a planar second side;
- c. one or more lids removeably coupled to the paint compartments having an outer side, an inner opposite side and an aperture located through the lid from the outer side to the inner opposite side;
- d. a stirring mechanism removeably coupled to the outer side of the lids having an integrally formed rod located at a central axis of the stirring mechanism, wherein the rod is positioned through the aperture in the lids to extend into the paint compartment; and
- e. a fan apparatus removeably coupled to the rod of the stirring mechanism on the inner opposite side of the lids.

27. (Twice Amended) [The] A reusable paint container [as claimed in claim 26]
comprising:

- a. a body having a first side, a second side, and a plurality of integral paint compartments, each of the paint compartments having a front, a back, a planar first side and a planar second side, wherein an interior of the paint compartments has a sloped area and a reservoir area, wherein the reservoir area includes a centrally located circular depression having a hole located in the center of the circular depression, wherein the hole is for coupling a spigot assembly to the paint compartment;

- b. one or more lids removeably coupled to the paint compartments each having an outer side, an inner opposite side and an aperture located through the lid from the outer side to the inner opposite side;
- c. a stirring mechanism removeably coupled to the outer side of the lids having an integrally formed rod located at a central axis of the stirring mechanism, wherein the rod is positioned through the aperture in the lids extending into a corresponding paint compartment; and
- d. a fan apparatus removeably coupled to the rod of the stirring mechanism on the inner opposite side of the lid.

REMARKS

Applicants respectfully request further examination and reconsideration in view of the amendments made above and comments set forth fully below. Claims 1, 3-7, 9-11 and 13-28 were pending. Within the Office Action, all of the Claims 1, 3-7, 9-11, 13-19, 21-26 and 28 have been rejected and Claims 20 and 27 have been objected to. By the above amendment, Claims 20 and 27 have been amended. Claims 1, 3-7, 9-11 and 13-28 are pending.

Rejections Under 35 U.S.C. § 102

Claims 1 and 3 have been rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 5,673,817 to Mullen et al. (hereinafter "Mullen"). The Applicant respectfully disagrees. Mullen teaches an all-purpose dispenser for liquids such as milk, cream and juices, and bulk products such as condiments and salad dressings. Mullen teaches that the dispensing unit is for dispensing liquid products such as milk, cream, juices, iced tea, water, liquid eggs, fruit drinks, lemonade, wine, and other liquids, and for dispensing bulk products such as salad dressings and condiments including ketchup and mustard. [Mullen, Abstract] The problem identified by Mullen in the description of the prior art is that previous food service dispensers encountered problems because of limited counter space as in a diner, and with limited dispensing versatility and flexibility. [Mullen, col. 1, lines 17-32] Mullen does not teach a paint storage container for storing and dispensing paint. Mullen also does not make obvious a paint storage container for storing and dispensing paint. The issues with storing and dispensing paint are very different than storing and dispensing food products in a diner-type atmosphere.

In contrast to the teachings of Mullen, the present invention is directed towards a paint storage container including a plurality of paint storage compartments formed in downward sloping configuration with each compartment having a spigot coupled to the base for dispensing the stored paint. (Abstract). In one aspect of the present invention, a frame is configured for holding the paint storage compartments. (Specification, page 3, line 22). In another aspect of the present invention, a body is configured for holding the paint compartments. (Specification, page 4, line 7). Moreover, the present invention specifies a means for dispensing removably coupled to the paint storage compartments. (Specification, page 2, lines 18-19). Furthermore, in contrast to the teachings of Mullen, the present invention teaches a dispensing means for dispensing paint without having to lift the paint storage compartments from a wall or a resting surface. As discussed above, Mullen does not teach a paint storage container including a plurality of paint storage compartments.

Within the Office Action Ex Parte Thilbault is cited for the proposition that, while Claim 1 discusses "paint," it is as an intended operation and is therefore of no significance. The applicant respectfully disagrees. Claim 1 does not merely discuss paint, but is specifically directed to a paint storage container. This is more than an intended operation, but specifically defines the type of apparatus that is claimed. Mullen does not teach or make obvious a paint storage container.

Further, within the MPEP Section 2115, the cases cited within the Office Action, Ex Parte Thilbault and In Re Otto, are discussed. At the conclusion of the discussion within Section 2115 of the MPEP, a caution is included that

this line of cases is limited to claims directed to machinery which works upon an article or material in its intended use. It does not apply to product claims or kit claims (i.e., claims directed to a plurality of articles grouped together as a kit).
[MPEP § 2115]

This caution has not been followed within the Office Action and this line of cases has been used improperly as a basis to reject the product claims included in the present application. It is clear from a reading of these cited cases and the relevant section in the MPEP that this line of cases does not apply to the present claims, which are all product claims directed to a paint storage container. The present claims are not directed to machinery which works upon an article or material in its intended use. Accordingly, the cases cited within the Office Action cannot be properly applied to the present product claims.

The independent Claim 1 is directed to a paint storage container. The paint storage container of Claim 1 comprises a plurality of paint storage compartments each for storing paint having a front, a back, a first side, a second side and a base, a frame holding the paint storage compartments and a means for dispensing. The means for dispensing is removeably coupled to the paint storage compartments for dispensing paint from the paint storage compartments, wherein the means for dispensing is capable of dispensing paint without lifting the paint compartments. As discussed above, Mullen does not teach or make obvious a paint storage container. Further, Mullen does not teach or make obvious a plurality of paint storage compartments for storing paint, a frame holding the paint storage compartments and a means for dispensing. For at least these reasons, the independent Claim 1 is allowable over the teachings of Mullen.

Claim 3 is dependent on the independent Claim 1. As discussed above, the independent Claim 1 is allowable over the teachings of Mullen. Accordingly, the dependent Claim 3 is allowable as being dependent on an allowable base claim.

Claims 1, 3 and 4 have been rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 5,842,606 to Devito (hereinafter "Devito"). The Applicant respectfully disagrees. Devito teaches a beverage server. Devito explicitly teaches that his invention relates generally to drink serving devices, and, more specifically, to a beverage server able to provide a user with a desired number of drink selections. [Devito, col. 2, lines 10-12] Devito does not teach a paint storage container for storing and dispensing paint. Devito also does not make obvious a paint storage container for storing and dispensing paint. The issues with storing and dispensing paint are very different than storing and dispensing beverages.

In contrast to the teachings of Devito, the present invention is directed towards a paint storage container including a plurality of paint storage compartments formed in downward sloping configuration with each compartment having a spigot coupled to the base for dispensing the stored paint. (Abstract). In one aspect of the present invention, a frame is configured for holding the paint storage compartments. (Specification, page 3, line 22). In another aspect of the present invention, a body is configured for holding the paint compartments. (Specification, page 4, line 7). Moreover, the present invention specifies a means for dispensing removably coupled to the paint storage compartments. (Specification, page 2, lines 18-19). Furthermore, in contrast to the teachings of Devito, the present invention teaches a dispensing means for dispensing paint without having to lift the paint storage compartments from a wall or a resting surface. As discussed above, Devito does not teach a paint storage container including one or more paint storage compartments.

Again, within the Office Action, Ex Parte Thilbault is cited for the proposition that, while Claim 1 discusses "paint," it is as an intended operation and is therefore of no significance. The applicant respectfully disagrees. Claim 1 does not merely discuss paint, but is specifically directed to a paint storage container. This is more than an intended operation, but specifically defines the type of apparatus that is claimed. Devito does not teach or make obvious a paint storage container. Further, as described above, the cases cited within the Office Action cannot properly be applied to the present claims, as the present claims are product claims and not directed to machinery which works upon an article or material in its intended use.

The independent Claim 1 is directed to a paint storage container. The paint storage container of Claim 1 comprises a plurality of paint storage compartments each for storing paint having a front, a back, a first side, a second side and a base, a frame holding the paint storage

compartments and a means for dispensing. The means for dispensing is removeably coupled to the paint storage compartments for dispensing paint from the paint storage compartments, wherein the means for dispensing is capable of dispensing paint without lifting the paint compartments. As discussed above, Devito does not teach or make obvious a paint storage container. Further, Devito does not teach or make obvious a plurality of paint storage compartments for storing paint, a frame holding the paint storage compartments and a means for dispensing. For at least these reasons, the independent Claim 1 is allowable over the teachings of Devito.

Claims 3 and 4 are both dependent on the independent Claim 1. As discussed above, the independent Claim 1 is allowable over the teachings of Devito. Accordingly, the dependent Claims 3 and 4 are both allowable as being dependent on an allowable base claim.

Claims 1, 3 and 4 have been rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent No. 6,109,482 to Briggs (hereinafter "Briggs"). The Applicant respectfully disagrees. Briggs teaches a device for dispensing liquid from a bottle. Briggs explicitly teaches that the general purpose of his invention is to provide a soda dispenser for conveniently dispensing soda from a 2-liter bottle or the like. [Briggs, col. 1, lines 30-35] Briggs does not teach a paint storage container for storing and dispensing paint. Briggs also does not make obvious a paint storage container for storing and dispensing paint. The issues with storing and dispensing paint are very different than storing and dispensing soda in 2-liter bottles.

In contrast to the teachings of Briggs, the present invention is directed towards a paint storage container including a plurality of paint storage compartments formed in downward sloping configuration with each compartment having a spigot coupled to the base for dispensing the stored paint. (Abstract). In one aspect of the present invention, a frame is configured for holding the paint storage compartments. (Specification, page 3, line 22). In another aspect of the present invention, a body is configured for holding the paint compartments. (Specification, page 4, line 7). Moreover, the present invention specifies a means for dispensing removably coupled to the paint storage compartments. (Specification, page 2, lines 18-19). Furthermore, in contrast to the teachings of Briggs, the present invention teaches a dispensing means for dispensing paint without having to lift the paint storage compartments from a wall or a resting surface. As discussed above, Briggs does not teach a paint storage container including a plurality of paint storage compartments.

Again, within the Office Action, Ex Parte Thilbault is cited for the proposition that, while Claim 1 discusses "paint," it is as an intended operation and is therefore of no significance. The applicant respectfully disagrees. Claim 1 does not merely discuss paint, but is specifically

directed to a paint storage container. This is more than an intended operation, but specifically defines the type of apparatus that is claimed. Briggs does not teach or make obvious a paint storage container. Further, as described above, the cases cited within the Office Action cannot properly be applied to the present claims, as the present claims are product claims and not directed to machinery which works upon an article or material in its intended use.

The independent Claim 1 is directed to a paint storage container. The paint storage container of Claim 1 comprises a plurality of paint storage compartments each for storing paint having a front, a back, a first side, a second side and a base, a frame holding the paint storage compartments and a means for dispensing. The means for dispensing is removeably coupled to the paint storage compartments for dispensing paint from the paint storage compartments, wherein the means for dispensing is capable of dispensing paint without lifting the paint compartments. As discussed above, Briggs does not teach or make obvious a paint storage container. Further, Briggs does not teach or make obvious a plurality of paint storage compartments for storing paint, a frame holding the paint storage compartments and a means for dispensing. For at least these reasons, the independent Claim 1 is allowable over the teachings of Briggs.

Claims 3 and 4 are both dependent on the independent Claim 1. As discussed above, the independent Claim 1 is allowable over the teachings of Briggs. Accordingly, the dependent Claims 3 and 4 are both allowable as being dependent on an allowable base claim.

Claims 7 and 9 have been rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 4,311,017 to Reed et al. (hereinafter "Reed"). The Applicant respectfully disagrees. Reed teaches a thermoelectric jug cooler for changing the temperature of a quantity of liquid. Reed does not teach a paint storage container for storing and dispensing paint. Reed also does not make obvious a paint storage container for storing and dispensing paint. The issues with storing and dispensing paint are very different than changing the temperature of a quantity of liquid.

In contrast to the teachings of Reed, the present invention is directed towards a paint storage container including a plurality of paint storage compartments formed in a downward sloping configuration with each compartment having a spigot coupled to the base for dispensing the stored paint. (Abstract). In one aspect of the present invention, a frame is configured for holding the paint storage compartments. (Specification, page 3, line 22). In another aspect of the present invention, a body is configured for holding the paint compartments. (Specification, page 4, line 7). Moreover, the present invention specifies a means for dispensing removably coupled to the paint storage compartments. (Specification, page 2, lines 18-19). Furthermore, in contrast to

the teachings of Reed, the present invention teaches a dispensing means for dispensing paint without having to lift the paint storage compartments from a wall or a resting surface. As discussed above, Reed does not teach a paint storage container including a plurality of paint storage compartments.

Again, within the Office Action, Ex Parte Thilbault is cited for the proposition that, while Claim 7 discusses "paint," it is as an intended operation and is therefore of no significance. The applicant respectfully disagrees. Claim 7 does not merely discuss paint, but is specifically directed to a paint storage container. This is more than an intended operation, but specifically defines the type of apparatus that is claimed. Reed does not teach or make obvious a paint storage container. Further, as described above, the cases cited within the Office Action cannot properly be applied to the present claims, as the present claims are product claims and not directed to machinery which works upon an article or material in its intended use.

The independent Claim 7 is directed to a paint storage container. The paint storage container of Claim 7 comprises a plurality of paint storage compartments each for storing paint and each having a front, a back, a planar first side, a planar second side and a base, a frame holding the paint storage compartments, one or more lids covering the paint storage compartments and a stirring assembly removably coupled to the lids for stirring the paint stored in the paint storage compartments. As discussed above, Reed does not teach or make obvious a paint storage container. Further, Reed does not teach or make obvious a plurality of paint storage compartments each for storing paint, a frame holding the paint storage compartments, one or more lids covering the paint storage compartments and a stirring assembly removably coupled to the lids for stirring the paint stored in the paint storage compartments. For at least these reasons, the independent Claim 7 is allowable over the teachings of Reed.

Claim 9 is dependent on the independent Claim 7. As discussed above, the independent Claim 7 is allowable over the teachings of Reed. Accordingly, the dependent Claim 9 is allowable as being dependent on an allowable base claim.

Rejections Under 35 U.S.C. § 103

Claims 1, 3-6, 10, 11, 13-19 and 22-26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 4,311,017 to Reed. The Applicant respectfully disagrees. As discussed above, Reed teaches a thermoelectric jug cooler for changing the temperature of a quantity of liquid. Reed does not teach a paint storage container for storing and dispensing paint. Reed also does not make obvious a paint storage container for storing and dispensing paint. The

issues with storing and dispensing paint are very different than changing the temperature of a quantity of liquid.

Also as discussed above, in contrast to the teachings of Reed, the present invention is directed towards a paint storage container including a plurality of paint storage compartments formed in downward sloping configuration with each compartment having a spigot coupled to the base for dispensing the stored paint. (Abstract). In one aspect of the present invention, a frame is configured for holding the paint storage compartments. (Specification, page 3, line 22). In another aspect of the present invention, a body is configured for holding the paint compartments. (Specification, page 4, line 7). Moreover, the present invention specifies a means for dispensing removably coupled to the paint storage compartments. (Specification, page 2, lines 18-19). Furthermore, in contrast to the teachings of Reed, the present invention teaches a dispensing means for dispensing paint without having to lift the paint storage compartments from a wall or a resting surface. As discussed above, Reed does not teach a paint storage container including a plurality of paint storage compartments.

The independent Claim 1 is directed to a paint storage container. The paint storage container of Claim 1 comprises a plurality of paint storage compartments each for storing paint having a front, a back, a first side, a second side and a base, a frame holding the paint storage compartments and a means for dispensing. The means for dispensing is removeably coupled to the paint storage compartments for dispensing paint from the paint storage compartments, wherein the means for dispensing is capable of dispensing paint without lifting the paint compartments. As discussed above, Reed does not teach or make obvious a paint storage container which includes a plurality of paint storage compartments each for storing paint. For at least these reasons, the independent Claim 1 is allowable over the teachings of Reed.

Claims 3-6 are all dependent on the independent Claim 1. As discussed above, the independent Claim 1 is allowable over the teachings of Reed. Accordingly, the dependent Claims 3-6 are all allowable as being dependent on an allowable base claim.

Claim 10 is dependent on the independent Claim 7. As discussed above, the independent Claim 7 is allowable over the teachings of Reed. Accordingly, the dependent Claim 10 is allowable as being dependent on an allowable base claim.

The independent Claim 11 is directed to a paint storage container. The paint storage container of Claim 11 comprises a plurality of paint storage compartments each for storing paint and each having a front, a back, a first side, a second side and a base, a frame holding the paint storage compartments, a dispensing mechanism removably coupled to the paint storage compartments for dispensing paint from the paint storage compartments, wherein the dispensing

mechanism is capable of dispensing paint without lifting the paint compartments, one or more lids covering the paint storage compartments and a stirring assembly removably coupled to the lid for stirring the paint stored in the paint storage compartments. As discussed above, Reed does not teach or make obvious a paint storage container. Further, Reed does not teach or make obvious a plurality of paint storage compartments each for storing paint and each having a front, a back, a first side, a second side and a base. For at least these reasons, the independent Claim 11 is allowable over the teachings of Reed.

Claims 13-15 are all dependent on the independent Claim 11. As discussed above, the independent Claim 11 is allowable over the teachings of Reed. Accordingly, the dependent Claims 13-15 are all allowable as being dependent on an allowable base claim.

The independent Claim 16 is directed to a reusable paint container. The reusable paint container of Claim 16 comprises a plurality of paint compartments for storing paint, a body holding the paint compartments having a front, a back, a planar first side and a planar second side, one or more lids removeably coupled to the paint compartments, a stirring mechanism removeably coupled to the outer side of the lids and a fan apparatus removeably coupled to the rod of the stirring mechanism on the inner opposite side of the lids. As discussed above, Reed does not teach or make obvious a reusable paint container. Further, Reed does not teach or make obvious a plurality of paint compartments for storing paint. For at least these reasons, the independent Claim 16 is allowable over the teachings of Reed.

Claims 17-19 are all dependent on the independent Claim 16. As discussed above, the independent Claim 16 is allowable over the teachings of Reed. Accordingly, the dependent Claims 17-19 are all allowable as being dependent on an allowable base claim.

The independent Claim 22 is directed to a reusable paint container. The reusable paint container of Claim 22 comprises a body having a first side, a second side and a plurality of integral paint compartments, each of the paint compartments having a front, a back, a planar first side and a planar second side, one or more lids removeably coupled to the paint compartments, a stirring mechanism removeably coupled to the outer side of the lids and a fan apparatus removeably coupled to the rod of the stirring mechanism on the inner opposite side of the lid. As discussed above, Reed does not teach or make obvious a reusable paint container. Further, Reed does not teach or make obvious a body having a plurality of paint compartments. For at least these reasons, the independent Claim 22 is allowable over the teachings of Reed.

Claims 23-26 are all dependent on the independent Claim 22. As discussed above, the independent Claim 22 is allowable over the teachings of Reed. Accordingly, the dependent Claims 23-26 are all allowable as being dependent on an allowable base claim.

Claims 21 and 28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Reed in view of Briggs. The applicant respectfully disagrees with this rejection. Claim 21 is dependent on the independent Claim 16. Claim 28 is dependent on the independent Claim 22. As discussed above, the independent Claims 16 and 22 are both allowable over the teachings of Reed. Accordingly, the dependent Claims 21 and 28 are also both allowable as being dependent on an allowable base claim.

Within the Office Action it is stated that Claims 20 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. By the above amendment, both Claims 20 and 27 have been rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, both Claims 20 and 27 are allowable.

For the reasons given above, applicants respectfully submit that the Claims 1, 3-7, 9-11 and 13-28 are now in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, they are encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: May 15, 2003

By: Jonathan O. Owens
Jonathan O. Owens
Reg. No. 37,902
Attorneys for Applicant(s)